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# Virginia Marine Resources Commission

## COMMISSION ACTIONS March 22, 2016

**\*\* APPROVAL OF AGENDA. UNANIMOUSLY APPROVED WITH THE REMOVAL OF ITEM 9 AND THE ADDITION OF AN ITEM CONCERNING A FUNDING ITEM RECOMMENDED BY THE RECREATIONAL FISHING ADVISORY BOARD. [\[audio\]](#)**

**1. MINUTES of previous meeting. APPROVED AS WRITTEN 6-0 WITH ASSOCIATE COMMISSIONER BALLARD ABSTAINING. [\[audio\]](#)**

**2. [PERMITS \(Projects over \\$500,000.00 with no objections and with staff recommendation for approval\)](#). UNANIMOUSLY APPROVED ITEMS 2A, 2B, AND 2C PER STAFF RECOMMENDATION. [\[audio\]](#)**

**3. CONSENT AGENDA ITEMS. NONE [\[audio\]](#)**

**4. CLOSED MEETING FOR CONSULTATION WITH, OR BRIEFING BY, COUNSEL. NONE [\[audio\]](#)**

**5. BENNETT THOMAS, #15-1075** Requests authorization to install and backfill 142 linear feet of vinyl bulkhead a maximum of two (2) feet channelward of the existing bulkhead; construct a private pier including a 118 square-foot landward decking area with an attached 16 linear-foot timber wave wall; install a 7-foot wide by 86-foot long marsh sill with sand backfill and wetlands vegetative plantings; install a 6-foot wide by 47-foot long riprap revetment; and to remove and grade an existing phragmites area and plant with wetlands vegetation, all adjacent to 1104 Inland Road situated along the Southern Branch of the Elizabeth River in Chesapeake. The project requires a wetlands and subaqueous permit. **UNANIMOUSLY APPROVED IN ACCORDANCE WITH STAFF RECOMMENDATION. [\[audio\]](#)**

**6. BLANCHARD CLAM COMPANY INC., #15-1076** Requests authorization to retain or replace a previously permitted crab shedding pier that is 213-foot long by 4-foot wide, and which includes a 16-foot by 12-foot enclosed shed, a 40-foot by 30-foot open-pile platform with upwellers, oyster grader and tables; and to construct a 6-foot by 4-foot enclosed water intake pump house and install 24 Taylor floats along Pungoteague Creek in the Town of Harborton, Accomack County, to support an aquaculture shellfish operation. The project is protested by nearby property owners. **UNANIMOUSLY APPROVED THE PROJECT AS PROPOSED WITHOUT THE IMPOSITION OF A CIVIL CHARGE FOR THE AFTER-THE-FACT CONSTRUCTION. [\[audio\]](#)**

**7. GEOFF FOUT and CHARLES BASHARA, #15-1779** Request authorization to

construct a 17-foot x 79-foot, open pile, commercial restaurant deck, channelward of an existing commercial deck, extending 22 feet channelward of mean low water, and an after-the-fact permit for a 18-foot x 24-foot floating dock with a 6-foot x 20-foot access ramp, and a 16-foot x 8-foot floating dock at 4300 Colley Avenue, on Knitting Mill Creek in the City of Norfolk. **UNANIMOUSLY APPROVED AS PROPOSED WITH NO CIVIL CHARGE BUT WITH A TRIPLE PERMIT FEE AND TRIPLE ROYALTY FOR THE AFTER-THE-FACT STRUCTURES.** [[audio](#)]

**8. GREG RAY, #14-0066** Requests authorization to install four (4) 80-foot long hex box breakwaters with beach nourishment, aligned 75 feet channelward of mean low water, adjacent to his property situated along the Great Wicomico River in Northumberland County. **UNANIMOUSLY APPROVED IN ACCORDANCE WITH STAFF RECOMMENDATION AND WITH A MODIFICATION TO SPECIAL CONDITION 5 TO STATE: 5) SHOULD THE STRUCTURES FAIL, THE PERMITTEE AGREES TO REMOVE THE FAILED STRUCTURES WITHIN 90-DAYS OF RECEIVING NOTIFICATION FROM THE COMMISSION.** [[audio](#)]

**9. VIRGINIA WATER HOLDINGS, LLC, #2014-126** Oyster Planting Ground Application. Applicant is seeking to lease up to 60 acres of planting grounds within the Rappahannock River in Lancaster County. The application is protested by nearby property owners. **THIS ITEM WAS PULLED FROM THE AGENDA AS A RESULT OF THE PROTEST BEING RESOLVED.** [[audio](#)]

**10. PUBLIC COMMENTS A REQUEST TO EXTEND THE COMMERCIAL STRIPED BASS MAXIMUM SIZE UPSTREAM OF THE 360 BRIDGE IN THE CITY OF TAPPAHANOCK THROUGH AN EMERGENCY ACTION BY ONE WEEK WAS NOT APPROVED. A SECOND REQUEST TO LOOK INTO THE IMPACT OF THE HAUL SEINE FISHERY WAS APPROVED AND THE COMMISSION DIRECTED THE FISHERIES CHIEF TO INVESTIGATE THIS MATTER.** [[audio](#)]

**11. OFFENDERS: THE COMMISSION HEARD 6 CASES OF OFFENDERS WITH NATURAL RESOURCE VIOLATIONS.** [[audio](#)]

**12. PUBLIC HEARING** Establish emergency amendments that limited the payment of the all-gear oyster resource user fee (\$300) to those individuals that have previously paid for an all-gear oyster resource user fee, as part of final Chapter 4 VAC 20-720-10 et seq., "Pertaining to Restrictions on Oyster Harvest." **APPROVED STAFF RECOMMENDATION WITH THE ADDITION OF AN ALLOWANCE FOR A PERSON TO PURCHASE AN ALL GEAR OYSTER RESOURCE USER FEE AFTER MAY 1, 2016 ONLY FOR THE TAKING OF SEED OYSTERS BY HAND TONG IN THE JAMES RIVER SEED AREA DURING THE MONTH OF MAY.** [[audio](#)]

**13. PUBLIC HEARING** Consider an amendments to Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks," that would establish the Virginia commercial smoothhound shark (smooth dogfish) quota, as 922,030 pounds dressed weight. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADOPT CHAPTER 4 VAC 20-490-10 ET SEQ; "PERTAINING TO SHARKS" TO INCLUDE THE 922,030 POUND, DRESSED WEIGHT, COMMERCIAL SMOOTHBOUND SHARK QUOTA FOR 2016.** [[audio](#)]

**14. DISCUSSION** Consider amendments to Chapter 4 VAC 20-490-10 et seq., "Pertaining to Sharks." that would establish the May 1 through April 30 commercial spiny dogfish harvest quota. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR AN APRIL 2016 PUBLIC HEARING.** [[audio](#)]

**15. DISCUSSION** Continued discussion on management measures for the 2016 recreational cobia fishery. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR AN APRIL 2016 PUBLIC HEARING. APPROVAL CAME AFTER 2.5 HOURS OF DISCUSSION AND THE INPUT OF RECREATIONAL COBIA ANGLERS AND CHARTER CAPTAINS WHO URGED THE COMMISSION TO DEFY A FEDERAL CLOSURE ORDERED FOR JUNE 20, 2016. THE COAST-WIDE QUOTA WAS EXCEEDED LAST YEAR BY 240%. VIRGINIA'S ANGLERS CAUGHT 47% OF ALL THE COBIA CAUGHT ON THE EAST COAST, WHICH REFLECTS A SIGNIFICANT INCREASE.** [[audio](#)]

**16. DISCUSSION** Consider amendments to Chapter 4 VAC 20-910-10 et seq., "Pertaining to Scup (Porgy)." that would establish the May 1 through October 31 commercial harvest quota for scup. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR AN APRIL 2016 PUBLIC HEARING.** [[audio](#)]

**17. DISCUSSION** Proposal to modify the May 1 through June 7 prohibition that makes it unlawful for any individual to harvest horseshoe crabs within 1000 feet in any direction of mean low water. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION TO ADVERTISE FOR AN APRIL 2016 PUBLIC HEARING.** [[audio](#)]

**18. FISHERIES** Approval of the \$10,000 expenditure to the Cost Center supporting the RFAB Coordinator from the Recreational Saltwater Fishing Development Fund. **THE COMMISSION UNANIMOUSLY APPROVED STAFF RECOMMENDATION.** [[audio](#)]

## **PAGE 2 ITEMS** [[audio](#)]

**2A. NORFOLK SOUTHERN RAILWAY COMPANY, #15-1667** Requests authorization to install approximately 554 linear feet of bulkhead a maximum of five and one-half (5.5) feet channelward of an existing bulkhead, 252 linear feet of bulkhead a maximum of six and one-half (6.5) feet channelward of an existing bulkhead, 2,925 square feet of stone scour, and 115 linear feet of riprap at the Norfolk Southern Lambert's Point Dock, adjacent to Pier 6 along the Elizabeth River in Norfolk. Staff recommends approval of the project as proposed with special conditions to protect anadromous fish species to include: a time-of-year restriction from February 15 to June 15 of any year, the use of a vibration hammer to initiate pile placement, the use of wooden pile cap cushions for remaining pile driving, and the use of a bubble curtain during pile driving **UNANIMOUSLY APPROVED PER STAFF RECOMMENDATION.**

**2B. LOUDOUN COUNTY DEPARTMENT OF TRANSPORTATION AND CAPITAL INFRASTRUCTURE, #15-1666** Requests authorization to construct a four-lane, divided, clear-span, roadway bridge, with associated temporary fill for construction access and

a temporary cofferdam, and install a suspended, 22.3kV power line over Tuscorora Creek associated with the proposed Crosstrail Boulevard (Segment B) extension project in Loudoun County. Recommend approval with the requirement that all instream construction activities shall be accomplished during low flow periods, erosion and sediment control measures shall be in conformance with the 1992 Third Edition of the Virginia Erosion and Sediment Control Handbook and shall be employed throughout construction, all excess excavated materials shall be removed to an upland site and contained in such a manner to prevent its reentry into State waters, all areas of State-owned bottom and adjacent lands disturbed by this activity shall be restored to their original contours and natural conditions within thirty (30) days from the date of completion of the authorized work and a time-of-year restriction for instream construction activities from April 15 through June 15 and August 15 through September 30 of any year to ensure protection of the State-threatened green floater mussel. **UNANIMOUSLY APPROVED PER STAFF RECOMMENDATION.**

**2C. HENRY COUNTY PUBLIC SERVICE AUTHORITY, #12-0052** Requests authorization to replace an existing water withdrawal structure with three (3) intake screens and associated encasement structure encroaching over 1,400 square feet of State-owned subaqueous bottom and extending approximately 20 feet channelward of ordinary high water at the existing Henry County Public Service Authority Upper River Water Filtration Plant along the Smith River, downstream of the Philpott Dam and Town Creek, in Henry County. Staff recommends approval of the project with a time-of-year restriction of October 1 through June 30 of any given year to protect endangered Roanoke Log Perch, any excavated material shall be stockpiled in such a manner to prevent reentry into the stream, and the implementation of strict erosion control measures in accordance the 1992 Third Edition of the Virginia Erosion and Sediment Control Handbook. **UNANIMOUSLY APPROVED PER STAFF RECOMMENDATION.**

